

### General Comments

Heal the Bay's mission is to make Southern California coastal waters safe and healthy again for people and marine life. We use scientific research and advocacy, outreach and educational programs, and legislative and legal advocacy to fulfill our mission.

In general, the CPR development and review process, and the truncated public input approach are a concern. At a minimum, CPR discussions related to water should be more focused and take place in other regions impacted as well. Heal the Bay looks forward to working with Secretary Tamminen and his staff on these issues in the near future.

Although there are some things in the CPR Report which we support (i.e., we strongly support making government more accessible to the public by upgrading information technologies, database management systems, and e-report submissions and releases), Heal the Bay does not support anything specific to the water quality governance structure recommendations about regional and state boards.

### Specific Comments

#### **1. We oppose the proposal to eliminate the State and Regional Boards**

This is the most damaging water quality recommendation made in the CPR. Elimination of the Boards would severely limit public participation in the regulatory and policy making process. The Boards are the entities that are most accountable to the public. One only needs to look at Region 4 issues such as the enforcement against the Army Corps for illegal dumping at Hansen Dam, landfill expansion at Sunshine Canyon and numerous TMDLs and County stormwater permits to understand the level of public, agency and discharger involvement at Board meetings, and the lengths that the Regional Board went to respond to their concerns. Elimination of the Boards makes regulatory deliberations secret rather than before a public audience and the media. The check and balance of a public process is absolutely critical to reduce the risk of corruption and to hold Board members accountable for their decisions: an issue that comes before the Senate during confirmation hearings for reappointments and every time a controversial decision is covered by the media.

In addition, public participation is a fundamental principal in environmental regulation under both state and federal law, and the elimination of the Boards will mean that California will unlikely remain as a national water quality protection leader. Also, elimination of the Boards will not save much money given the extremely low per diem allowed for the 81 regional board member positions. (\$100/day maximum \$13,500/year), nor will it increase administration accountability or regulatory decision making.

The State Board must be maintained. The State Board monthly public meetings provides invaluable access to the general public and groups who do not maintain a lobbying presence in Sacramento. Also, the State Board's role as an appellate body for the regions on enforcement and permitting issues is critical. All TMDLs come to the State Water Board before they are forwarded to the Office of Administrative Law. In addition, funding decisions on State Revolving Fund projects and bond measure funded projects come before the board. The most important function of the Board is to approve statewide water quality policies and to insure that these policies are applied consistently across the state.

The Regional Boards must be maintained. Significant responsibilities of the board that occur at hearings include: approval of Basin Plan amendments, TMDLS, NPDES permits, general permits, WDRs, and permit rescissions. They also host workshops on numerous water quality issues critical to the region, and they hear appeals on smaller, local enforcement actions. Their members also sit on critical regional committees such as the Santa Monica Bay Restoration Commission, and they play an instrumental role in educating numerous stakeholder groups on water quality policy and laws.

Other related issues include the following: The procedural function of the proposed undersecretary is also unclear. Although it seems that the State Board staff will remain intact, it is unclear if regular "State Board" meetings, hearings, and workshops will continue, administered in some other fashion than by the former State Board. Also, it is unclear if the new "exempt officers" would replace the current Regional Board Executive Officers as well as the Boards themselves.

For your information - There has been significant analysis of Regional Board performance and recommendations to improve performance already compiled by the bipartisan public advisory group [AB 982] convened to help the state with its water monitoring and water pollution limit [TMDL] programs. This CPR recommendation is not in accord with any of the multi-year comments or suggestions by both dischargers and environmental groups.

## **2. We do not support the possible elimination of regional offices and water quality regions**

The CPR proposal suggests that any remaining regional offices be based on nine economic regions. The economic region concept is a poor fit for regulating watersheds and water quality. The state's nine regions were delineated by watersheds and subsequent Basin Planning, state funded watershed planning efforts, permitting sequencing, and TMDL development has been based on a watershed approach. The CPR's regional proposal also would severely undercut the Governor's focus on implementing TMDLs as set forth in his Action Plan. Obviously, having multiple regions attempting to implement a single TMDL can only confuse those efforts.

The CPR's lack of attention to the importance of the watershed-based regions is contrary to its purported interest in charging the Division of Water Quality with protecting watersheds.

Eliminating regional water quality offices would severely hamper public participation both by those members of the public and business-people unable to take off work to travel long distances to get Board staff assistance. Also, eliminating regional board offices would make it more difficult for staff to conduct site inspections and enforcement efforts.

### **3. We oppose proposed changes to Basin Planning process**

In its Evaluation of Boards and Commissions, the CPR recommends that, "Basin Plans should be developed by members appointed on an ad-hoc basis for six months, after which time, having completed the plan, the group would be disbanded." The CPR provides no explanation for the need of the recommendation, the qualifications of the ad-hoc members, or how the punctuated nature of the basin planning recommendation will provide continuity and consistency in planning. Clearly, Basin Planning is one of the most critical responsibilities of the Regional Boards and appointees with water quality expertise and knowledge of local watersheds are critical to plan development. Also, the proposed recommendation would wreak havoc on TMDL implementation as Basin Plan amendments and permitting are the primary TMDL implementation tools.

### **4. We oppose deletion of the minimum six meetings per year requirement for the Regional Boards**

The detrimental impacts of the elimination of the Regional Boards are compounded by this proposal to delete the minimum six meeting/hearing requirements. Monthly public meetings make California's water quality program distinct, and much more responsive than the traditional agency structure used by EPA and most other states where a sole director makes the decisions, with no regular public forum.

Thank you for the opportunity to comment. Heal the Bay looks forward to sitting down and discussing ways to optimize the effectiveness of California's water quality protection efforts in the near future.

